

**NARCOTICS CONTROL COMMISSION
(AMENDMENT) BILL, 2023**

MEMORANDUM

The object of the Bill is to amend the Narcotics Control Commission Act, 2020 (Act 1019) to empower the Minister to grant a licence for the cultivation of cannabis which has not more than 0.3% THC content on a dry weight basis for industrial purposes for obtaining fibre or seed or for medicinal purposes.

Following the majority decision in the judgement of the Supreme Court in the Ezuame vrs the Attorney-General and the Speaker of Parliament Writ No. J1/11/2021 dated 27th July 2022 (unreported) which declared section 43 of the Narcotics Control Commission Act, 2020 (Act 1019) as unconstitutional and therefore null and void, it has become necessary to amend section 43 of Act 1019 to enable Parliament debate the policy of the provision.

On pages 27 and 28 of the judgment at paragraphs 2 to 4, the majority stated as follows:

“From the evidence submitted by the Plaintiff herein, there was no debate of this crucial amendment. The Defendant does not even assert that there was debate over the amendment which was introduced at about 5:50pm and short of Presidential assent, had become law by 6:02pm. Ironically, the Respondent contends that every provision of the bill was debated. However, when the Plaintiff positively asserts that clause 43 of the Bill was not debated in any shape or form, the Respondent conveniently fails to contradict such a direct, specific and material allegation. There was also no report which was put to Parliament specifically on what the effects of such a critical change in the law regarding the cultivation of cannabis would be.

In particular, the lack of debate on section 43 of Act 1019 amounts to not only a direct violation of the letter of Article 106 of the Constitution, but also a violation of the spirit of the law. There was conspicuously, no debate over such a critical shift in policy by Parliament. Needless to say, this conduct and mode of lawmaking defeats transparency and accountability enjoined by the Constitution. The dictates of constitutional fidelity, in our view, require that such a shift in policy, which is intended

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to result in a novel exception, ought to be debated to satisfy the purpose of Article 106. Failing this, the process adopted by Parliament offends the letter and the spirit of the Constitution. This conclusion does not, in any way, derogate from Parliament's power and independence in the conduct of its own proceedings but in accordance with our supreme Constitution.

In the premises, the mode of the introduction of section 43 of Act 1019 violates the letter and spirit of the Constitution. Accordingly, section 43 is hereby struck down as unconstitutional."

The Bill therefore seeks to amend Act 1019 to reintroduce section 43 to provide an opportunity for Parliament to debate the policy of the provision in accordance with Article 106 of the Constitution.

Hemp is the English vernacular name historically given to *Cannabis sativa* L. (Hazekamp et al., 2016). *Cannabis sativa* L. is the botanical name of a plant belonging to the family Cannabaceae. According to the United Nations Office on Drugs and Crime (UNODC), while cannabis is commonly designated by different subspecies names, including *indica*, *ruderalis*, *spontanea*, and *kafiristanica*, the chemical and morphological distinctions by which cannabis has been divided into these subspecies are often not readily discernible, appear to be environmentally modifiable, and vary in a continuous fashion. For most purposes, it suffices to apply the name *cannabis sativa* to all cannabis plants encountered.

In the late 1990s, research began to reveal the mechanisms of action of the phytocannabinoids responsible for the unique and characteristic psychoactive effects of the *Cannabis sativa* L. plant. THC, otherwise known as delta-9-tetrahydrocannabinol, is the cannabinoid identified as being primarily responsible for the unique pharmacological effects of cannabis, including the so-called "high". However, THC also plays an important role in the medical effects associated with the plant. While being the primary psychoactive constituent present in *Cannabis sativa* plants, its effects can be modulated by complex pharmacological interactions with more than 150 other cannabinoids so far identified. Other well-known cannabinoid (CBD), however, does not provoke the "recreational" effect of THC.

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States have therefore adopted various cutting points to distinguish between legal and illegal cannabis according to THC content, including 0.2%, 0.3%, 0.6%, or 1% of THC. It is for these reason that section 43 of Act 1019 sought to empower the Minister responsible for the Interior to grant a special licence for the cultivation of cannabis with a THC content of not more than 0.3% by dry weight.

In recent times, the medical and therapeutic uses of the cannabis plant have given rise to a series of political, legislative, and judicial processes in various parts of the world, resulting in legal and regulatory reforms. Although this progress is not exclusive to Africa and is still far from being a win, there is a clear shift in the regional drug policy debate, on cannabis.

A variety of factors played a role, including the growing availability of scientific evidence, the inability of the international drug control regime to accommodate and respond appropriately to new evidence, the emergence of a new public health paradigm in the area of drugs and the adoption of alternative policies at the local level.

This trend seems to be picking up progressively with many African countries such as South Africa, Lesotho, Uganda, Zimbabwe, Malawi, Eswatini, Rwanda and more recently calls by the government of Zambia at the Commission on Narcotic Drugs (CND) on moves towards regulating cannabis.

In its 2014 Annual Report, the International Narcotics Control Board recognised medicinal cannabis programmes and enumerated some criteria that must be respected to implement such programmes. In June 2017, the Board published an alert on the therapeutic use of cannabis and noted that a growing number of governments were authorising the medicinal use of cannabis, concluding that the 1961 Single Convention on Narcotic Drugs indeed permitted the practice under several conditions, including the need for Governments to submit estimates of anticipated consumption to the Board with details about the number of people using the substance for therapeutic purposes. The Convention also provided that where cannabis cultivation for medicinal purposes is planned, the Government

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must submit details about the geographic area where cultivation will take place to the Board. In addition, the national cannabis agency must supervise the process.

The medicinal benefits of cannabis cannot be underrated. The benefits range from the potential use of cannabis in managing Parkinson's diseases, opioid addiction, sleep problems, multiple sclerosis, epilepsy, Tourette Syndrome, and acute and chronic pain to gastrointestinal disorders, among other conditions.

Hemp or industrial hemp is a variety of the cannabis plant species explicitly grown for its industrial uses. Hemp and products derived from hemp are not subject to international drug controls under the United Nations drug treaties or supplementary protocols. The exemption of the cannabis plant from international control for industrial uses applies to fibre and seed. The 1961 Single Convention on Narcotic Drugs limits the cultivation of cannabis for industrial purposes to fibre and seed. Cannabis Indica is distinct and has unique phytochemical compositions and uses and can be used to make a variety of commercial and industrial products, including food, rope, fabrics, paper, plastic and composite materials, building materials, jewellery, cosmetics and biofuels. One of the attributes of the cannabis plant is the ability to absorb nuclear radiation. Hemp was used in the cleaning up of Chernobyl disaster.

Additionally, the global cannabis industry generates an estimated one billion dollars a year. Countries like the United States of America, Canada, Mexico, Costa Rica, Argentina, and Peru have identified the value share of cannabis to their economic growth. According to industry research group New Frontier Data, the market value of the cannabis industry in the United States of America alone is projected to reach \$30 billion annually by 2025. With its increasing legalisation in other regions, there are numerous economic growth opportunities regarding increased tax revenues, job creation, and investment prospects.

Cosmetic applications of cannabidiol in hair and skin products are becoming more popular. As a result, this market is poised to grow by three point zero nine billion United States Dollars during 2020-2024.

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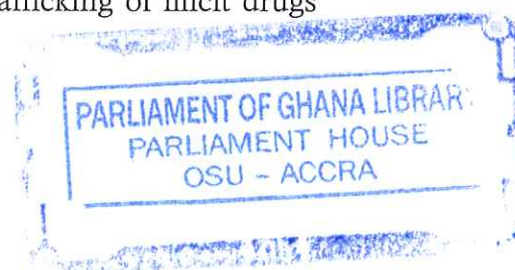
Ghana should aim to change the narrative to cultivate cannabis legally for the benefit of the economy as well as the health sector. The growth of cannabis could solve the problems of shortages faced by firms that require cannabis for their medical, cosmetic, and industrial needs. Ghana needs to enter the export market by initially targeting the Sub-Saharan African market and later the United States of America, Europe and the Asia Pacific markets. This is because these markets have the biggest consumers and expenditure. It is believed that cannabis production could generate over three billion United States Dollars in 2023, making it one of the country's most lucrative industries. It is expected to benefit the country by creating jobs, generating taxes, and encouraging foreign direct investment and a trade surplus.

As demand for cannabis products surge worldwide and States look to diversify their income streams, Ghana could do same by regulating the economic uses of the plant.

The Sustainable Development Goals offer a critical platform to help Ghana refocus and redesign the drug policy agenda. To do this, Ghana must take a cue from the operational recommendations of the Outcome Document of the United Nations General Assembly Special Session in 2016. The recommendations enjoin Ghana to place people at the centre of policy efforts. The recommendations also imply that policy makers ought to critically analyse paths taken in the past, as well as be ready to take different alternative actions from the actions that have not achieved the expected results in the country and on the continent.

Redirecting part of our domestic funding of drug control law enforcement towards health and development policies would definitely provide a significant contribution to achieving the Goals of the 2030 Agenda.

Ghana is prepared to increase her partnership with national and international stakeholders in the fight against trafficking of illicit drugs and all drug related issues.



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Ghana will collaborate with all partners to ensure that best practices in respect of the cultivation of cannabis for medicinal and industrial purposes are adopted.

The Bill is composed of a single *clause* which empowers the Minister to grant a licence for the cultivation of cannabis which has not more than 0.3% THC content on a dry weight basis for industrial purposes for obtaining fibre or seed or for medicinal purposes. The Bill further prohibits a person who has been granted a licence under the Bill from cultivating cannabis for recreational use.

AMBROSE DERY (MP)
Minister responsible for the Interior

Date: 5th July, 2023.

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ARRANGEMENT OF SECTIONS

Section

Section 43 of Act 1019 amended

A
BILL

ENTITLED

**NARCOTICS CONTROL COMMISSION
(AMENDMENT) ACT, 2023**

AN ACT to amend the Narcotics Control Commission Act, 2020 (Act 1019) to substitute section 43 to empower the Minister to grant a licence for the cultivation of cannabis which has not more than 0.3% THC content on a dry weight basis for industrial purposes for obtaining fibre or seed or for medicinal purposes.

PASSED by Parliament and assented to by the President

Section 43 of Act 1019 amended

The Narcotics Control Commission Act, 2020 (Act 1019) is amended by the substitution for section 43, of

“Special provision relating to cannabis

43. (1) Despite sections 39 to 42, the Minister, on the recommendation of the Commission, may grant a licence for the cultivation of cannabis which has not more than 0.3% THC content on a dry weight basis for industrial purposes for obtaining fibre or seed or for medicinal purposes.

(2) For the avoidance of doubt, a licence granted under subsection (1) shall not be for the cultivation of cannabis for recreational use.”.



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Date of *Gazette* notification: 6th July, 2023.

